

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 369

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3015, IDAHO CODE, TO REVISE CRITERIA FOR DETERMINING THE RESIDENCY OF AN ESTATE OR TRUST AND TO MAKE A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3015, Idaho Code, be, and the same is hereby amended to read as follows:

63-3015. ~~QUALIFIED FUNERAL~~ ESTATES AND TRUSTS. (1) An estate is treated as a resident estate if the decedent was domiciled in Idaho on the date of death. If the estate is the estate of a decedent, it is treated as a resident estate if the person for whom the estate was created is a resident of Idaho.

(2) A trust, other than a qualified funeral trust, is treated as a resident trust if three (3) or more of the following conditions existed for the entire taxable year:

(a) The domicile or residency of the grantor is in Idaho;

(b) The trust is governed by Idaho law;

(c) The trust has real or tangible personal property located in Idaho;

(d) The domicile or residency of the trustee is in Idaho;

(e) The administration of the trust takes place in Idaho. Administration of the trust includes conducting trust business, investing trust assets, making administrative decisions, recordkeeping and preparation and filing of tax returns.

(3) A trust, other than a qualified funeral trust, is treated as a part-year resident trust each day of the taxable year during which three (3) or more of the conditions specified in subsection (2) of this section existed.

~~(4) A resident of this state includes a trust whose qualified funeral trust is treated as a resident trust if its trustee has elected treatment as a qualified funeral trust pursuant to section 685 of the Internal Revenue Code where, at the time of the initial funding of the trust, the trust is required to be established under the laws of this state, or, in the absence of such a requirement, where a funeral home or cemetery located in this state is identified to provide the services or merchandise, or both, under the terms of a preneed contract requiring the establishment of the trust.~~

(25) Qualified funeral trusts having a single trustee may file a single, composite return pursuant to rules of the state tax commission. Each beneficiary's interest in a qualified funeral trust included in the composite return under this section shall be taxed as a separate trust for the purposes of application of the rate schedules in section 63-3024, Idaho Code, and determination of the filing requirement in section 63-3030, Idaho Code.

1 The composite return shall not be a return of a person under section 63-3082,  
2 Idaho Code.

3 (6) If the estate does not qualify as a resident estate, it is treated as  
4 a nonresident estate.

5 (7) If the trust does not qualify as a resident or part-year resident  
6 trust, it is treated as a nonresident trust.

7 (8) For purposes of determining residency status of a trust, no dis-  
8 tinction is made between inter vivos trusts and testamentary trusts or be-  
9 tween revocable trusts and irrevocable trusts.

10 SECTION 2. An emergency existing therefor, which emergency is hereby  
11 declared to exist, this act shall be in full force and effect on and after its  
12 passage and approval, and retroactively to January 1, 2013.